

Message Text

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FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 6008

C O N F I D E N T I A L TANANARIVE 0204

E. O. 11652: GDS

TAGS: CASC, MA

SUBJ: AGM BANKRUPTCY SALE; REPPAS

REF: STATE 26409

1. EMBOFF DISCUSSED QUESTIONS RAISED REFTTEL WITH AGM BANKRUPTCY TRUSTEE RAMAHOLIMIHASO. RE QUESTIONS A, B, AND D REF, SHE PROVIDED FOLLOWING INFO: LEASING OF ASSETS OF BANKRUPT COMPANY IS NOT PROHIBITED BY MALAGASY LAW. HOWEVER, TRUSTEE IS NOT EMPOWERED BY LAW TO AUTHORIZE INDEPENDENTLY CONTINUATION OF OPERATIONS OF BANKRUPT COMPANY BY LEASING OR ANY OTHER ARRANGEMENT. CONTINUATION OF OPERATIONS OF BANKRUPT COMPANIES CAN ONLY BE AUTHORIZED BY A COURT IN ACCORDANCE WITH FOLLOWING PROVISION OF ARTICLE 506 OF MALAGASY COMMERCIAL CODE: "IN CASE OF BANKRUPTCY, THE OPERATION OF A BUSINESS AT THE INITIATIVE OF THE TRUSTEE CAN BE AUTHORIZED ONLY BY THE COURT ON THE BASIS OF A REPORT WRITTEN BY THE BANKRUPTCY CASE JUDGE, IF THE PUBLIC INTEREST OR THAT OF THE CREDITORS IMPERATIVELY REQUIRES IT". RAMAHOLIMIHASO EXPLAINED THAT THUS, IN ACCORDANCE WITH ARTICLE 506, SCHEDULED 19MAR SALE AGM ABATTOIR WILL BE CARRIED OUT IF THERE IS NO COURT DECISION IN MEANTIME AUTHORIZING CONTINUED OPERATION THAT FACILITY BY LEASING OR OTHER ARRANGEMENT. EVEN IF NO BUYERS COME FORTH BY 19MAR, SHE, AS TRUSTEE, CAN STILL NOT INITIATE LEASE OF ABATTOIR UNLESS THERE IS COURT DECISION AUTHORIZING IT. RAMAHOLIMIHASO SAID THAT IN ABSENCE OF SUCH COURT DECISION SHE WOULD THEN HAVE TO ATTEMPT TO SELL ABATTOIR WITH LOWER FLOOR PRICE.

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2. RAMAHOLIMIHASO EXPLAINED THAT REPPAS HAS BEEN PROVIDED OFF-ICE SPACE AND FACILITIES SO THAT, AS HE REQUESTED, HE WILL HAVE OPPORTUNITY TO DEVELOP MATERIAL TO USE IN TRYING TO CONVINCE COURT THAT OPERATION OF ABATTOIR SHOULD BE PERMITTED UNDER LEASING ARRANGEMENT. SHE INDICATED THAT SHE HAS ATTEMPTED TO HELP REPPAS BY PROVIDING VARIOUS INFO BUT FEELS HE FACES ALMOST IMPOSSIBLE TASK. ACCORDING TO HER, THERE ARE JUST NOT SUFFICIENT CATTLE IN MORONDAVA AREA TO OPERATE ABATTOIR AT REASONABLE LEVEL AND FOR THIS REASON IT WOULD BE DIFFICULT TO DEMONSTRATE TOHCOURT THAT ABATTOIR CAN BE PROFITABLE.

3. RE QUESTION C REFTTEL, DIFFICULT FOR EMBASSY TO JUDGE WHETHER THERE WILL BE ANY POTENTIAL BUYERS FOR ABATTOIR UNDER CONDITIONS 19MAR SALE, BUT GUESS IS THERE WILL NOT BE. NO U.S. FIRMS HAVE CONTACTED EMBASSY RE SALE. RAMAHOLIMIHASO STATES SHE HAS PROVIDED SALE INFO TO ABOUT 11 FOREIGN FIRMS BUT HAS NO IDEA IF ANY OF THEM REALLY INTERESTED. SHE VENTURED OPINION THAT SOME FOREIGN FIRM OUGHT TO FIND IT PROFITABLE TO BUY ABATTOIR AND EXPORT ITS EQUIPMENT GIVEN RAPIDLY RISING COSTS OF INDUSTRIAL EQUIPMENT IN RECENT YEARS.

4. RE QUESTION E REFTTEL, EMBASSY IS AWARE OF NO BANKRUPTCIES INVOLVING BUSINESSES WITH SIZABLE CAPITAL ASSETS WHICH HAVE OCCURED IN MADAGASCAR IN RECENT YEARS. RAMAHOLIMIHASO ALSO INDICATES SHE IS AWARE OF NO RECENT BANKRUPTCY CASE IN WHICH BUSINESS OPERATION WAS ALLOWED TO CONTINUE WITHOUT PRIOR SALE CARRIED OUT BY TRUSTEE. SHE STATED THAT BUYERS ARE ALMOST INVARIABLY FOUND FOR MOST BANKRUPT BUSINESSES.

5. EMBASSY HAS NO REASON AT THIS TIME TO BELIEVE THAT MALAGASY GOVT IS DEALING WITH AGM BANKRUPTCY IN MANNER DIFFERENT FROM THAT APPLIED OTHER BANKRUPT BUSINESSES. HOWEVER, WE SHALL ATTEMPT OBTAIN INFORMAL OPINIONS OF MALAGASY LAWYERS AND OTHERS AND PASS THEM ON TO DEPT.
MENDENHALL

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